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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 709965	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/AU2003/001715	International filing date (day/month) 22 December 2003	/year) Priority date (day/month/year) 20 December 2002
International Patent Classification (IPC) or	national classification and IPC	20 200011001 2002
Int. Cl. 7 A61 M 11/00		
Applicant ACDITY DDG PORT () 1		
ACRUX DDS PTY LTD (et al.)		•
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This report is the international prelimina Authority under Article 35 and transmitt	ry examination report, established by ted to the applicant according to Artic	this International Preliminary Examining le 36.
2. This REPORT consists of a total of 5	sheets, including this cover sheet.	·
3. This report is also accompanied by ANN	IEXES, comprising:	
a. X (sent to the applicant and to the	International Bureau) a total of 2	sheets, as follows:
sheets of the description, c sheets containing rectificat Administrative Instruction	ions authorized by this Authority (see	en amended and are the basis for this report and/or Rule 70.16 and Section 607 of the
sheets which supersede ear the disclosure in the internation.	lier sheets, but which this Authority cational application as filed, as indicate	considers contain an amendment that goes beyond ed in item 4 of Box No. I and the Supplemental
a sequence listing and/or table re	u only) a total of (indicate type and nu elated thereto, in computer readable for se Section 802 of the Administrative I	orm only as indicated in the Sunnlemental Day
4. This report contains indications relating	to the following items:	
X Box No. I Basis of the report	t -	
Box No. II Priority		
Box No. III Non-establishmen	t of opinion with regard to novelty, in	ventive step and industrial applicability
Box No. IV Lack of unity of in	ivention	
X Box No. V Reasoned statement citations and explain	nt under Article 35(2) with regard to a mations supporting such statement	novelty, inventive step or industrial applicability;
X Box No. VI Certain documents	s cited	
Box No. VII Certain defects in	the international application	
Box No. VIII Certain observatio	ns on the international application	
Date of submission of the demand	Date of comple	etion of the report
16 July 2004	4 April 2005	cuon or me report
Name and mailing address of the IPEA/AU	Authorized Offic	cer
AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALI E-mail address: pct@ipaustralia.gov.au Facsimile No. (02) 6285 3929	MATTHEW	FORWARD
	Telephone No.	(02) 6283 2606

Box	No. I	Basis of the report
1.	With regar	d to the language, this report is based on the international application in the language in which it was filed, unless indicated under this item.
	This which	report is based on translations from the original language into the following language, h is the language of a translation furnished for the purposes of:
		international search (under Rules 12.3 and 23.1 (b))
		publication of the international application (under Rule 12.4)
		international preliminary examination (under Rules 55.2 and/or 55.3)
2.	filed" and	d to the elements of the international application, this report is based on (replacement sheets which have been o the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally are not annexed to this report):
		ternational application as originally filed/furnished
	X the de	escription:
		pages 1,2,4-9 as originally filed/furnished
		pages* 3.3a received by this Authority on 13.10.04 with the letter of 13.10.04 pages* received by this Authority on with the letter of
	X the cl	
	_	pages 10-12 as originally filed/furnished
		pages* as amended (together with any statement) under Article 19
		pages* received by this Authority on with the letter of pages* received by this Authority on with the letter of
	X the dr	pages* received by this Authority on with the letter of awings:
		pages 1/4-4/4 as originally filed/furnished
	•	pages* received by this Authority on with the letter of
		pages* received by this Authority on with the letter of
	a sequ	ence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.
3	The a	mendments have resulted in the cancellation of:
		the description, pages
		the claims, Nos.
		the drawings, sheets/figs
		the sequence listing (specify):
		any table(s) related to the sequence listing (specify):
4.	This remade, 70.2(c	eport has been established as if (some of) the amendments annexed to this report and listed below had not been since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule)).
		the description, pages
	一	the claims, Nos.
		the drawings, sheets/figs
		the sequence listing (specify):
		any table(s) related to the sequence listing (specify):
•	If item 4 ap	plies, some or all of those sheets may be marked "superseded."
		

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citation	is and explanations supporting such statement

┝—	·	-	
1.	Statement		
	Novelty (N)	Claims 1-15	YES
		Claims .	. NO
	Inventive step (IS)	Claims 3-8,12,13	YES
		Claims 1,2,9-11,14,15	NO
	Industrial applicability (IA)	Claims 1-15	YES
		Claims	NO

2. Citations and explanations (Rule 70.7)

The following documents identified in Australian Patent Office International Search Report have been considered for the purposes of this report:

- D1 WO 2001085237
- D2 EP 0744161
- D3 EP 0864335
- D4 US 3918451
- D5 EP 0506293
- D6 WO 1993025251

The present claims define a substance dispensing device including a body defining a chamber for receiving a substance capsule, the capsule being operable to dispense substance therefrom and having an outlet through which the substance is dispensed, the body having two relatively movable parts that are moved relatively apart from a rest position to condition the device for use, a closure member associated with one of the movable parts wherein the closure member obstructs the outlet when the movable parts are in the rest position.

NOVELTY (N) AND INVENTIVE STEP (IS):

D1 discloses substance dispensing device (10) including a body defining a chamber for receiving a substance capsule (20), the capsule being operable to dispense substance therefrom and having an outlet through which the substance is dispensed (46), the body having two relatively movable parts that are moved relatively apart from a rest position to condition the device for use (20,26) {Abstract, Fig. 1-12B, page 2 line 20 – page 17 line 17}. This document does not disclose a closure member associated with one of the movable parts wherein the closure member obstructs the outlet when the movable parts are in the rest position. Such closure member with locking means is common general knowledge an would solve the problem of foreign matter entering the "device". Claims 1, 2, 9-11, 14, 15 do not involve inventive step in view of this document.

D2 discloses cartridge for dispensing dental material. This document does not disclose all and every technical features of the invention. Claims 1-15 are new and involve inventive step in view of this document.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

pternational application No. PCT/AU2003/001715

x No. VI Certain docum	cmts cited		_
Certain published documents	(Rule 70.10)		
Application No. Patent No.	Publication date (day/month/year)	Filing date (day/month/year)	Priority date (valid cla
US 2003/0163089 A1	28 August, 2003	28 February 2002	
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		ce including a body defining	
		he rest position {Abstract, Figure 1 in the move the rest position {Abstract, Figure 2 in the move in the move in the second second in the move in the second in the second in the second in the move in the second	
Non-written disclosures (Rule 7	70.9)		· · · · · · · · · · · · · · · · · · ·
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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: Box V

D3 discloses a substance dispensing device including a body defining a chamber for receiving a substance capsule, the capsule being operable to dispense substance there from and having an outlet (95) through which the substance is dispensed, the body having two relatively movable parts (99,56) that are moved relatively apart from a rest position to condition the device for use {Abstract, Fig. 1-13, column 2 line 12 column 15 line 41}. This document does not disclose a closure member associated with one of the movable parts wherein the closure member obstructs the outlet when the movable parts are in the rest position. Such closure member with locking means is common general knowledge an would solve the problem of foreign matter entering the "device". Claims 1, 2, 9-11, 14, 15 do not involve inventive step in view of this document.

D4 discloses a substance dispensing device including a body defining a chamber for receiving a substance capsule (17), the capsule being operable to dispense substance there from and having an outlet (12) through which the substance is dispensed, the body having two relatively movable parts that are moved relatively apart from a rest position to condition the device for use{Abstract, Fig.1-4, column 1 line 2 – column 3 line 34) This document does not disclose a closure member associated with one of the movable parts wherein the closure member obstructs the outlet when the movable parts are in the rest position. Such closure member with locking means is common general knowledge an would solve the problem of foreign matter entering the "device". Claims 1, 2, 9-11, 14, 15 do not involve inventive step in view of this document.

D5 discloses an inhaler for powdered medicament. D5 discloses a cap (8) on an inhaler which is "closure member" {Abstract, Fig.1-5, page 2 line 2 - page 7 line 19}. Claims 1,2,9-11,14,15 lack an inventive step in view of (D4) when read in the light of D5.

D6 discloses a multiple injection syringe system which is a substance dispensing device including a body defining a chamber for receiving a substance capsule, the capsule being operable to dispense substance there from and having an outlet (2) through which the substance is dispensed, the body having two relatively movable parts (44, 42) that are moved relatively apart from a rest position to condition the device for use, a closure member (4) associated with one of the movable parts wherein the closure member (34) obstructs the outlet when the movable parts are in the rest position {Abstract, Fig.1,2, page 4 line 2 – page 16 line 13}. I read the "moving apart" as "pulling back" the syringe plunger. Claims 1,2, 9-11, 14-15 are not new and do not involve inventive step in view of D6.

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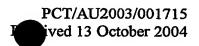
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button is operated by depression thereof along an axis, said one movable member being rotatable about the axis to switch the stop means between the enabled and a disabled condition so that when the stop means is in the enabled condition the actuator button cannot be depressed. It is further preferred that the device include locking means formed with the movable parts to prevent movement of the movable parts from the rest position. Preferably the locking means includes a detent formed with another of the two movable parts which is locatable in an opening formed in said one of the movable parts when said movable parts are in the rest position, whereby the detent must be substantially displaced from the opening to allow the movable parts to be moved from the rest position. Preferably the detent is biased towards being located in the opening. Preferably the opening is a blind cavity having a membrane located at one end of the cavity whereby in use the user depresses the membrane to displace the detent. It is preferred that the movable parts form a cover member covering the outlet when in the rest position. It is preferred that the device include a substance capsule located within the chamber, the substance capsule including pump for dispersing the substance through the outlet. It is also preferred that the device include a viewing window being provided in a side of either of the movable parts for exposing the quantity of substance left in the capsule.

It will be convenient to hereinafter describe the invention in greater detail by reference to the accompanying drawings showing a dispensing device to which the invention can be applied. The particularity of those drawings and the related description is not to be understood as superseding the generality of the definition of the invention according to the claims. The drawings show an example embodiments of aspects of the invention.

Figure 1 illustrates an isometric view of a preferred embodiment of a dispensing device with movable parts of a body in a rest position.

Figure 2 illustrates a plan view of the device from figure 1.

Figure 3 illustrates a cross sectional view of the dispensing device from figure 1.

Figure 3a illustrates an alternate detent arrangement to that shown in figure 3.

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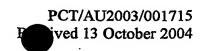


Figure 4 illustrates the dispensing device with the movable parts in an in use position.

Figure 5 illustrates the movable parts in isolation.

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Figure 6 illustrates one of the movable parts and a button.

Figures 1 to 4 show an example device 1 to which an embodiment of each aspect of the invention has been applied. The device 1 includes a hollow body 2 that defines a chamber 3 (Figure 3) for receiving a substance capsule 4. The contents (the substance) of the capsule 4 will be selected to suit the intended use of the device 1. In the example shown, the capsule 4 includes a manually operable pump 5 for dispensing a metered quantity of the substance. Other arrangements could be adopted, such as an aerosol-type dispenser.

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